HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT APPEAL No. 72 OF 2007

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Between:

A.P. Housing Board HIG (SFS),
Phase X Allottees Welfare Association,
Vijayawada.

.... Appellant

AND

The A.P. Housing Board,
Rep. by its Vice Chairman & Housing Commissioner,
Hyderabad & another.

.....Respondents

:: J U D G M E N T ::

Counsel for the appellant : Shri V.R. Avula

Dated: 25.01.2007

Per G.S.SINGHVI, CJ

This appeal is directed against order dated

13.12.2006 passed by the learned Single Judge, whereby she dismissed the writ petition filed by the appellant for quashing the allotment of HIG houses under Self Financing Scheme, Phase X, Bhavanipuram, Vijayawada.

The appellant is a society registered under the Andhra Pradesh Societies Registration Act, 2001. It was registered on 11.1.2005. Those who applied for allotment of HIG houses constructed in Phase X of Bhavanipuram, Vijayawada under the self financing scheme are its members.

The members of the appellant association were declared successful in the lottery drawn by the Andhra Pradesh Housing Board (for short, 'the Board') in July, 2003. In furtherance of letters dated 30-9-2003 issued by the competent authority of the Board, each one of them deposited Rs.81,000/- as cost of the house. After about 11 months, the competent authority informed the allottees that the cost of the land has been revised from Rs.1,200/- to Rs.2,400/- per square yard and they are required to deposit the additional cost. At that juncture, the appellant association was formed and got registered. The association filed Writ Petition No.5995 of 2005 questioning the demand of additional cost. The same is pending final adjudication. In the meanwhile, the competent authority of the Board sent letters dated 07.07.2005 to the allottees requiring them to give their consent for execution of additional works on payment of additional cost. 17 of the allottees are said to have given their consent and

deposited the additional cost. As a sequel to this, they were allotted houses in the first and second rows of Phase X. The appellant challenged the allotment of houses to 17 applicants by alleging discrimination and arbitrary exercise of power by the Board.

The learned Single Judge rejected the plea of discrimination and held that those who did not opt to pay additional cost cannot be heard to complain against the allotment of houses to 17 willing applicants.

We have heard Shri V.R. Avula, learned counsel for the appellant and perused the record. In our opinion, the writ petition filed by the appellant was liable to be dismissed for more than one reason, which are enumerated below:

1) The appellant association did not have the locus to question the allotment of houses to 17 persons because it had neither applied for allotment of a house in the year 2003 nor any allotment was made in its favour. The houses were allotted to individual applicants. None of those individuals belong to the category of have-nots, who are unable to seek intervention of the court due to ignorance, poverty or other similar reasons.

2) Along with the writ petition, the appellant neither produced its constitution nor the resolution passed authorizing Sri Sk.Dasthagiri to file the writ petition.

3) None of the persons, who were allotted houses in first and second rows of Phase X, was impleaded

as a party to the writ petition and without issuing notice and hearing them, the learned Single Judge could not have annulled the allotment.

For the reasons stated above, the appeal is dismissed. However, liberty is given to the members of the appellant association to file writ petition or avail appropriate legal remedy against the allotment of houses to 17 persons who opted to pay additional cost.

As a sequel to dismissal of the writ appeal, W.A.M.P.No.116 of 2007 filed by the appellant for interim relief is also dismissed.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

25.01.2007

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